FILED

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WEST VIRGINIA LEGISLATURE

SECRETARY OF STATE

SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 529

(SENATORS KESSLER, SPROUSE, MINARD,
PLYMALE AND JENKINS, *original sponsors*)

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[Passed March 10, 2007; in effect ninety days from passage.]

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FOR

Senate Bill No. 529

(SENATORS KESSLER, SPROUSE, MINARD,
PLYMALE AND JENKINS, *original sponsors*)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §61-8B-16 of the Code of West Virginia, 1931, as amended, relating to forensic medical examinations; prohibiting any requirement that an alleged victim of a sexual offense must pay for the costs of a forensic medical examination, participate in the criminal justice system or cooperate with law enforcement in order to receive a forensic medical examination; eliminating certain reimbursement; and clarifying that licensed medical facilities may seek payment from the alleged victim or his or her insurer for services rendered other than the forensic medical examination.

Be it enacted by the Legislature of West Virginia:

That §61-8B-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8B. SEXUAL OFFENSES.

§61-8B-16. Payment for costs of forensic medical examination.

1   (a) When any person alleges that he or she has been
2   the victim of an offense proscribed by this article, the
3   West Virginia prosecuting attorneys institute shall pay
4   to a licensed medical facility from the forensic medical
5   examination fund the cost of the forensic medical
6   examination for the alleged victim on the following
7   conditions and in the following manner:

8   (1) The payment shall cover all reasonable, customary
9   and usual costs of the forensic medical examination;

10   (2) The costs of additional nonforensic procedures
11   performed by the licensed medical facility, including,
12   but not limited to, prophylactic treatment, treatment of
13   injuries, testing for pregnancy and testing for sexually
14   transmitted diseases, may not be paid from the fund:
15   *Provided,* That nothing in this section shall be
16   construed to prohibit a licensed medical facility from
17   seeking payment for services referred to in this
18   subdivision from the alleged victim or his or her insurer,
19   if any.

20   (3) The forensic medical examination must have been
21   conducted within a reasonable time of the alleged
22   violation;

23   (4) The licensed medical facility must apply for
24   payment of the costs of a forensic medical examination
25   from the fund within a reasonable time of the
26   examination;

27   (5) The licensed medical facility shall certify that the
28   forensic medical examination was performed and may
29   submit a statement of charges to the West Virginia
30   Prosecuting Attorneys Institute for payment from the
31   fund.

32   (b) No licensed medical facility may collect the costs
33   of a forensic medical examination from the alleged
34   victim of a violation of this article or from the alleged
35   victim's insurance coverage, if any.

36   (c) Nothing in this section shall be construed to
37   require an alleged victim of sexual assault to participate
38   in the criminal justice system or to cooperate with law
39   enforcement in order to be provided a forensic medical
40   examination pursuant to the provisions of this section.

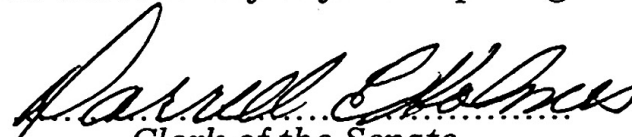The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

....
Chairman Senate Committee
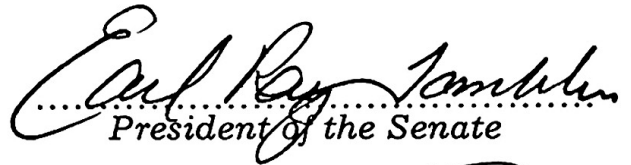
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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker House of Delegates

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The within ... is approved .... this
the 28th ..... Day of .... March ...., 2007.

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Governor